

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FRANCIS SCHAEFFER COX,

Plaintiff,

v.

HUGH J. HURWITZ,¹ Acting Director of Federal Bureau of Prisons; GARY BURGESS; KATHY HILL; KATERINE SIERVELD; RICHARD BLYTHE; UNKNOWN PARTIES 1-3; and WILLIAM TRUE, Warden of USP-Marion,

Defendants.

Case No. 17-cv-1334-JPG-SCW

MEMORANDUM AND ORDER

This matter comes before the Court on the motion to dismiss for failure to state a claim filed by defendants Richard Blythe, Gary Burgess, Kathy Hill and Katherine Siereveld (Doc. 31) and on the motion to drop those defendants from the case filed by plaintiff Francis Schaeffer Cox (Doc. 43). Cox has not responded in a timely manner to the defendants' motion to dismiss, which can be construed an admission of the merits of the motion under Local Rule 7.1(c). The Court finds it appropriate to so construe his failure to respond in light of Cox's motion to dismiss the moving defendants, which essentially concedes the merits of their motion. Accordingly, the Court:

- **GRANTS** the motion to dismiss for failure to state a claim filed by Blythe, Burgess, Hill and Siereveld (Doc. 31);
- **GRANTS** Cox's motion to drop defendants Blythe, Burgess, Hill and Siereveld from the case (Doc. 43);

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Acting Director of the Bureau of Prisons Hugh J. Hurwitz is automatically substituted for Mark Inch, the former agency director. The Court **DIRECTS** the Clerk of Court to change the docket sheet to reflect the substitution.

- **DISMISSES with prejudice** all claims in this case against Blythe, Burgess, Hill and Siereveld, who are terminated as parties to this case;
- **DENIES as moot** Blythe's and Hill's motion for summary judgment on Count 8 (Doc. 34);
- **DENIES as moot** the defendants' motion to stay discovery (Doc. 39); and
- **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of the case.

IT IS SO ORDERED.

DATED: August 22, 2018

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE